

Commission shall prescribe, and shall traverse generally the course and the territory herein outlined along such route as may be deemed most desirable from the scenic and climatic standpoints and most advisable from the standpoint of economy of construction; provided that said Highway shall not be located except along routes where the right of way may be obtained without expense to the State, and also, unless the State Highway Commission shall be able to obtain donations to the State at least one section of ground abutting on said highway for each ten (10) miles of length of the highway so located for the use of the people of Texas for camping accommodations and for park purposes.

The State Highway Commission shall be authorized to utilize State convicts in the construction of said Highway, if in their opinion such use is practicable and will reduce the cost of construction.

Sec. 2. There is hereby appropriated out of the State Highway Fund, to be immediately available, the sum of ten thousand (\$10,000.00) dollars, or so much thereof as may be necessary, to cover the expense of making the survey and investigations provided for by this Act.

Section 3. The fact that the survey and construction of the Davis Mountains State Park Highway herein provided for would provide in Texas a State Park and recreation ground for the convenient use of all the people of Texas, substantially one mile in altitude, with a summer climate as good as the best in the world and abounding in the most beautiful mountain scenery, at a very reasonable cost, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each House be suspended, and said rule is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

TWELFTH DAY.

Senate Chamber,

Austin, Texas,

Thursday, May 26, 1927.

The Senate met at 10:00 o'clock

a. m. pursuant to adjournment, and was called to order by Lieutenant Governor Barry Miller.

The roll was called, a quorum being present, the following Senators answering to their names:

Bailey.	Neal.
Berkeley.	Parr.
Bledsoe.	Pollard.
Bowers.	Real.
Fairchild.	Reid.
Floyd.	Russek.
Greer.	Smith.
Hall.	Stuart.
Hardin.	Triplett.
Holbrook.	Westbrook.
Lewis.	Wirtz.
Love.	Witt.
McFarlane.	Wood.
Miller.	Woodward.
Moore.	

Absent.

Price.

Absent—Excused.

Ward.

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Woodward.

Petitions and Memorials.

(See Appendix.)

Committee Reports.

(See Appendix.)

Bills and Resolutions.

By Senator Greer:

S. B. No. 48, A bill to be entitled "An Act relating to the duties of the County Board of Trustees of the public schools of this State, in all counties having not less than 34,000 and not more than 34,500 population, according to the federal census of 1920, authorizing them to condemn land for school purposes; etc., and declaring an emergency."

Read first time and referred to Committee on Education.

By Senator McFarlane:

S. B. No. 49, A bill to be entitled "An Act to amend Article 847 of Title 10 of the Code of Criminal Procedure of the State of Texas providing that no judgment in any criminal case shall be reversed by the Court of Criminal Appeals for any error not affecting the judgment or causing injury to the defendant."

Read first time and referred to Committee on Criminal Jurisprudence.

By Senator Pollard:

S. B. No. 50, A bill to be entitled "An Act to provide for the collection of delinquent taxes in independent school districts where the local ad valorem tax is assessed and collected locally by or under the direction of the Trustees of such district, and to repeal all laws and parts of laws in conflict herewith."

Read first time and referred to Committee on State Affairs.

By Senator Pollard:

S. B. No. 51, A bill to be entitled "An Act providing that appointments to State service where practicable shall be made on the basis of merit determined after examination; that the Board of Control may put this principle into effect; that said Board may create rules and regulations for that purpose; that the officers and employees of the State shall be divided into non-competitive, competitive and labor classes and that those applying for examination for employment in competitive and labor classes shall pay fee for such examination, etc."

Read first time and referred to Committee on State Affairs.

By Senator Witt:

S. B. No. 52, A bill to be entitled "An Act enacting a new section of Chapter 59, General Laws, Regular Session, 39th Legislature, said Chapter 59 being also carried in the Revised Civil Statutes of 1925 as Articles 2922A to 2922L inclusive, so as to include independent school districts having not to exceed 250 scholastics within the provisions of said Chapter 59 relating to school districts and schools; authorizing such independent school districts to be grouped into and made a part of rural high school districts.

Read first time and referred to Committee on Education.

By Senator Witt:

S. B. No. 53, A bill to be entitled "An Act providing for a system of public education in the State of Texas including the establishment, government, operation, maintenance, management and control of a University and all matters incident thereto; the establishment, maintenance, operation, government, man-

agement and control of an agricultural and mechanical college and all matters incident thereto; etc., and declaring an emergency."

Read first time and referred to Committee on Education.

By Senators Bailey, Russek, Holbrook:

S. B. No. 54, A bill to be entitled "An Act to amend article 5518 of the Revised Statutes of Texas of 1925, so as to limit the time within which a person under 21 years of age, or in the military service of the United States in time of war, or of unsound mind, or imprisoned, may institute suit for the recovery of real estate, and to add another article to be known as Article 5518-A, etc., and declaring an emergency."

Read first time and referred to Committee on Civil Jurisprudence.

By Senator Bailey:

S. B. No. 55, A bill to be entitled "An Act providing that negotiable instruments shall not be rendered non-negotiable by reason of the execution or contents of any other paper creating a lien or other right, securing such negotiable instrument, or by reason of any references in the negotiable instrument to such other paper; and declaring an emergency."

Read first time and referred to Committee on Civil Jurisprudence.

By Senator Holbrook:

S. B. No. 56, A bill to be entitled "An Act to repeal Article 3107 of Chapter 13 of the Revised Civil Statutes of Texas, and substituting in its place a new Article providing that every political party in this state shall have the power to prescribe the qualifications of its own members to vote or otherwise participate in such political party, and declaring an emergency."

Read first time and referred to Committee on Civil Jurisprudence.

By Senators Holbrook and Ward:

S. B. No. 57, A bill to be entitled "An Act amending Article 5347 of the Revised Civil Statutes of 1925 so as to make proper disposition of certain funds mentioned therein and particularly certain funds that under present laws go to the game law, etc., and declaring an emergency."

Read first time and referred to Committee on Civil Jurisprudence.

By Senator Woodward:

S. B. No. 58, A bill to be entitled

"An Act to amend Article 4177, Code of Criminal Procedure where there are one or more felony charges against a person."

Read first time and referred to Committee on Criminal Jurisprudence.

By Senators Holbrook and Bowers:

S. B. No. 59, A bill to be entitled "An Act to repeal Article 3107 of Chapter 13 of the Revised Civil Statutes of Texas, and substituting in its place a new Article providing that every political party in this State through its State Executive Committee shall have the power to prescribe the qualifications of its own members and shall in its own way determine who shall be qualified to vote or otherwise participate in such political party, and declaring an emergency."

Read first time and referred to Committee on Privileges and Elections.

By Senator Lewis:

S. B. No. 60, A bill to be entitled "An Act to amend Article 3137 of Chapter 13 of Title 50, of the Revised Civil Statutes of Texas, adopted at the regular session of the 39th Legislature of said State in the year A. D. 1925."

Read first time and referred to Committee on Privileges and Elections.

By Senator Berkeley:

S. B. No. 61, A bill to be entitled "An Act fixing the open season for hunting taking or killing Black Tail Deer in that part of the State west of the Pecos River; limiting and restricting the killing of such deer during said open season in said territory; prescribing the penalty for violating any provision of this Act; and declaring an emergency."

Read first time and referred to Committee on State Affairs.

By Senator Wood:

S. B. No. 62, A bill to be entitled "An Act amending Section 2, of Chapter 142 of the General and Special Laws of the Regular Session of the 40th Legislature so as to authorize the money therein appropriated to be used for the payment of debts of the Prison System already created in addition to the purposes for which said appropriation

was made by the Act of the Regular Session of the 40th Legislature herein amended; and declaring an emergency."

Read first time and referred to Committee on Finance.

By Senator Bledsoe:

S. B. No. 63, A bill to be entitled "An Act respecting the formation of a fresh water supply District, etc."

Read first time and referred to Committee on Mining, Irrigation and Drainage.

By Senator Love:

S. B. No. 64, A bill to be entitled "An Act to create and establish for each of the incorporated cities of this state having a population of twenty-five thousand or more inhabitants, a court with jurisdiction co-extensive with the territorial limits of such city concurrent with county courts, county courts at law and the justice courts of this state over all misdemeanors committed within the territorial limits of such city, etc., and declaring an emergency."

Read first time and referred to Committee on Towns and Cities and Corporations.

Simple Resolution No. 24.

The Chair laid before the Senate as pending business, the following resolution:

Simple Resolution No. 24, instructing the Senate Conference Committee to take the \$50,000.00 for a home for Criminal Delinquent Negro Girls from the appropriation bill.

The resolution was read, and was adopted by the following vote:

Yeas—12.

Fairchild.	Neal.
Floyd.	Parr.
Greer.	Pollard.
Hardin.	Russek.
Lewis.	Smith.
Miller.	Woodward.

Nays—9.

Berkeley.	Reid.
Bledsoe.	Triplett.
Hall.	Westbrook.
Holbrook.	Wirtz.
Real.	

Absent.

Bailey.	Price.
Bowers.	Witt.
McFarlane.	Wood.
Moore.	

Absent—Excused.

Ward.

(Pair Recorded.)

Senator Stuart (present), who would vote yea with Senator Love (absent), who would vote nay.

Message From the House.

The Chair recognized the door-keeper, who introduced a messenger from the House with the following message:

Hall of the House of Representatives,
Austin, Texas, May 26, 1927.

Hon. Barry Miller, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House grants the request of the Senate for a Free Conference on S. B. No. 2, and the following committee is appointed on the part of the House:

Teer, Sinks, Rawlins, Storey, Fly.

Hall of the House of Representatives,
Austin, Texas, May 26, 1927.

Hon. Barry Miller, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

H. B. No. 15, A bill to be entitled "An Act creating and defining by metes and bounds Road District No. 2 of Hidalgo County, Texas, under the authority of Article 3, Section 52, of the Constitution of the State of Texas, for the purpose of constructing, maintaining and operating macadamized, graveled or paved roads and turnpikes, or in aid thereof; provided, that such district shall be made a body corporate and taxing district under the Constitution and laws of the State of Texas; including certain territories heretofore embraced and contained within the old original Road District No. 1 of Hidalgo county, Texas; providing that the present outstanding bonds of said original Road District No. 1 shall remain a charge against all taxable properties situated within said original district as it existed at the date of the issuance of the present outstanding bonds thereof; providing that the commissioners court of Hidalgo county shall continue to levy, assess and collect, annually, sufficient taxes to pay the interest thereon and provide sinking funds sufficient to pay the principal at maturity, said taxes to be levied and collected upon all the property situ-

ated in said district as it existed at the time of the issuance of the present outstanding bonds; providing that said district hereby created shall have authority to issue serial bonds for the purpose of constructing, maintaining and operating macadamized, graveled or paved roads and turnpikes, or in aid thereof, upon a vote of two-thirds majority of the resident property taxpayers voting thereon, who are qualified electors of said district as herein defined; providing for the levy and collection of taxes sufficient to pay the interest on, and provide a sinking fund therefor, such bonds and taxes to be a charge against all property, real and personal, situated in the hereinafter defined district, and declaring an emergency."

H. B. No. 18, A bill to be entitled "An Act to repeal the Coleman County Special Road Law, being Chapter 52, page 461, Special Laws of the Regular Session of the Twenty-ninth Legislature, and the amendments to said law passed by Chapter 97, page 763, of the Special Laws of the Regular Session of the Thirtieth Legislature, and declaring an emergency."

Hall of the House of Representatives,
Austin, Texas, May 26, 1927.

Hon. Barry Miller, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill, with amendments:

S. B. No. 16, A bill to be entitled "An Act making an appropriation of the sum of \$31,409.85, or so much thereof as may be necessary, payable out of the General Revenue not otherwise appropriated, and appropriating all other current revenue, or so much thereof as may be necessary, to be derived from the operation of the Texas State Railroad until August 31, 1927, and to be deposited in the State Treasury; said appropriation being for the traveling, clerical and other expenses of the Board of Managers, and all other expenses connected with the sale and maintenance, operation or lease of said railroad, and being for the period up to and including August 31, 1927; and declaring an emergency."

Respectfully submitted,

M. LOUISE SNOW,

Chief Clerk, House of Representatives.

House Bills Read and Referred.

After their captions had been read, the Chair referred the following House Bills:

H. B. No. 15 and H. B. No. 18, read and referred to Committee on Highways and Motor Traffic.

Senate Bill No. 16.

Senator Fairchild moved that the Senate refuse to concur in the House amendment to Senate Bill No. 16, and request a Free Conference Committee on the bill.

The motion prevailed.

The Chair announced the appointment of the following conference committee on Senate Bill No. 16:

Fairchild, Witt, Holbrook, Greer, Bowers.

Conference Committee on House Bill No. 3.

Senator Hall announced his withdrawal from the conference committee on H. B. No. 3, and the Chair appointed Senator Reid in his stead.

Senate Bill No. 17.

On the motion of Senator Stuart, Senate Bill No. 17 was made special order for Monday morning after the morning call.

Recess.

The Senate at 12:00 noon, on the motion of Senator McFarlane, recessed until this afternoon at 2:00 p. m.

After Recess.

The Senate was called to order by Lieutenant Governor Barry Miller at 2:00 p. m. pursuant to recess.

Senate Bill No. 18.

The Chair laid before the Senate on second reading, the following bill:

S. B. No. 18, A bill to be entitled "An Act to provide for the eradication of scabies among sheep and cattle, to provide adequate quarantine and sanitary measures, to provide for the inspection and dipping and certification of said livestock, and to provide adequate penalties for violation of quarantine and dipping orders of the Live Stock Sanitary Commission, and declaring an emergency."

The bill was read second time and passed to engrossment.

On motion of Senator Berkeley, the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 18 was put on its third reading and final passage, by the following vote:

Yeas—26.

Bailey.	Neal.
Berkeley.	Parr.
Bledsoe.	Pollard.
Fairchild.	Real.
Floyd.	Reid.
Greer.	Russek.
Hall.	Smith.
Hardin.	Triplett.
Holbrook.	Westbrook.
Lewis.	Wirtz.
Love.	Witt.
McFarlane.	Wood.
Miller.	Woodward.
Moore.	

Absent.

Bowers. Stuart.

Absent—Excused.

Price. Ward.

The bill was read third time and passed finally, by the following vote:

Yeas—23.

Bailey.	Parr.
Berkeley.	Pollard.
Bledsoe.	Real.
Fairchild.	Reid.
Greer.	Russek.
Hall.	Smith.
Holbrook.	Triplett.
Lewis.	Westbrook.
Love.	Witt.
McFarlane.	Wood.
Miller.	Woodward.
Neal.	

Nays—1.

Wirtz.

Absent.

Bowers.	Moore.
Floyd.	Stuart.
Hardin.	

Absent—Excused.

Price. Ward.

Senate Bill No. 22.

The Chair laid before the Senate on second reading, the following bill:

S. B. No. 22, A bill to be entitled "An Act regulating the slaughter and sale of the meat of animals for market and providing that every person engaged in the occupation of

a butcher or a slaughterer of cattle in this State, shall file a bond to be approved by the county judge of the county in which he desires to carry on such business, etc., and declaring an emergency."

The bill was read second time.

The committee report, carrying an amendment, was read.

On the motion of Senator Bailey, the bill was laid on the table subject to call.

Senate Bill No. 35.

The Chair laid before the Senate on the calendar, the following bill:

S. B. No. 35, A bill to be entitled "An Act providing for the separation of all public free school affairs in cities or towns from the municipal government therein; providing that all the power and authority over such schools shall be exercised by such cities or towns through their boards of education; providing for the election of trustees of the independent districts authorized herein; vesting the title to school property of such cities and towns in the independent district; authorizing the independent districts to assume outstanding bonds of cities and towns issued for school purposes; repealing all laws and parts of laws in conflict with the provisions of this Act, and declaring an emergency."

The bill was read second time.

On the motion of Senator Holbrook, the bill was laid on the table subject to call.

Messages From the Governor.

The Chair recognized the doorkeeper, who introduced a messenger from the Governor, with the following Executive Messages.

Executive Department,

Austin, Texas, May 26, 1927.

To the Honorable Senate of Texas.
Gentlemen:

At the Regular Session of the Fortieth Legislature, I appointed Honorable Will Embry (inadvertently listed as Mrs. Will Embry), to be one of the Commissioners of Washington Park. Mr. Embrey advises that he is unable to accept this place. To succeed Mr. Embry, I submit for your confirmation the name of Mr. W. B. Francis of Brenham, Texas, to be one of the commissioners of this park.

With your advise and consent, I desire to appoint, under the pro-

visions of Article 5681, Revised Civil Statutes, 1925, the following persons to be public weighers in the towns respectively listed:

Mr. Joe Key, Davistown, Atascosa County.

Mr. H. C. Billimek, McCoy, Atascosa County.

Mr. E. A. Tuttle, Poteet, Atascosa County.

Article 5682, requiring endorsement by the Senator and a majority of the representatives of the senatorial district, has been complied with.

Respectfully submitted,

DAN MOODY,
Governor of Texas.

Executive Office,

Austin, Texas, May 26, 1927.

To the Honorable Fortieth Legislature of Texas.

Gentlemen:

The subject of the passage of the attached bills is submitted by request for your consideration.

Respectfully submitted,

DAN MOODY,
Governor of Texas.

— B. No.—, A bill to be entitled "An Act requiring every person, firm, co-partnership, association or corporation doing business in this State, which are subject to occupation, gross receipts, or other taxes upon sales or gross receipts, to keep complete, permanent and detailed records of all business transacted in Texas, said records to be kept at the principal place of business in Texas; providing that the Attorney General of Texas, or the State Comptroller, or the duly authorized representatives of either, may make examination of all such books and records; defining the offense of failing to keep such records, and also failing or refusing to produce the same for examination, and fixing the penalty; providing for the producing of such records in court, and declaring an emergency."

— B. No.—, A bill to be entitled "An Act fixing the open season for hunting, taking or killing Black Tail Deer in that part of the State west of the Pecos River; limiting and restricting the killing of such deer during said open season in said territory; prescribing the penalty for violating any provision of this Act; and declaring an emergency."

— B. No.—, A bill to be entitled "An Act providing that negotiable instruments shall not be rendered non-negotiable by reason of the execution or contents of any other paper creating a lien or other right, securing such negotiable instrument, or by reason of any reference in the negotiable instrument to such other paper; and declaring an emergency."

— B. No.—, A bill to be entitled "An Act to prohibit the killing of squirrel in Hardin County during the months of February 1st to October 15th, inclusive; providing that during the other months of the year no one shall kill more than ten squirrels in any one day; prescribing a penalty for violation, and declaring an emergency."

— B. No. —, A bill to be entitled "An Act to amend Chapter 2, Title 22, Revised Civil Statutes, 1925, by adding thereto Article 725a to permit the issuance of bonds by counties for the purpose of funding or refunding indebtedness heretofore incurred for the purchase and improvement of county parks; and declaring an emergency."

— B. No. —, A bill to be entitled "An Act declaring unlawful the sale or offer for sale, transportation, preparation, receiving or delivery for transportation or marketing of citrus fruit that is immature, unripe, overripe, frost damaged or otherwise unfit for consumption and the sale thereof declared to be a fraud upon the public; defining terms; providing for the inspection of citrus fruits and issuance of certificates of inspection thereof; providing for the purchase and affixing of stamps in connection with the marketing or transportation of such citrus fruits; providing for the appointment of persons to inspect the same and fixing their compensation; defining certain offenses; prescribing the power and duties of the commissioner of agriculture, with regard to the provisions of this Act; providing for the enforcement thereof and prescribing penalties for violation of any of the provisions of this Act, and declaring an emergency."

— B. No.—, A bill to be entitled "An Act to amend Article 417 of the Code of Criminal Procedure of the State of Texas for 1925, so as to provide that where there are one or more felony charges against one or more persons for the same act or

transaction, or for two or more actions or transactions connected together, or for two or more acts or transactions of the same class of crimes or offenses which may be properly joined, the whole may be joined in one indictment in separate counts, charging separate offenses, and a conviction may be secured for each offense in the same trial under the same indictment; providing for judgment and sentence for each offense; providing for the manner of returning verdicts by the jury; providing that failure to reach a verdict on any count shall not be a bar to judgment on counts on which verdict is returned; providing for numbering the counts of indictment; and declaring an emergency."

Executive Office,

Austin, Texas, May 25, 1927.

To the Honorable Fortieth Legislature of the State of Texas.

Gentlemen:

In the re-codification of the statutes of 1925, a material change was made in the wording of subdivision 7 of article 1995, Revised Civil Statutes, 1925. Prior to the re-codification, subdivision 7 read as follows:

"In all cases of fraud and in cases of defalcation of public officers' suit "may be instituted in the county in which the fraud was committed, or where the defalcation occurred or where the defendant has his domicile."

As carried into the Revised Statutes of 1925, the subdivision reads:

"In all cases of fraud and defalcation of public officers, suit may be brought in the county in which the fraud was committed or defalcation occurred or where the defendant has his domicile."

In the case of *San Marcos Academy v. Burgess*, 292 S. W. 626, Advanced Sheet, No. 2, dated May 4, 1927, the Court of Civil Appeals at San Antonio has called attention to this change and pointed out that while the rule of law was well settled under this subdivision as it existed prior to re-codification, that the changed wording in the re-codification will likely change the rule of law with reference to cases brought under this subdivision.

I deem this of sufficient importance to merit consideration, and I submit to you for your consideration

an amendment of subdivision 7 of article 1995, so as to make its language clear and in conformity to the long established rule with reference to venue in cases of the nature covered by the subdivision.

I further submit for your consideration the enactment of a subdivision to article 1995, Revised Civil Statutes, creating an additional exception to the general venue rule.

The number of instances in which an injunction will be granted to restrain the threatened or actual violation of penal statutes is limited. There are not more than five or six criminal offenses which may be restrained by injunction proceedings. In some of these cases the law permits the suit for injunction to be filed in the county in which the transaction has occurred or is threatened or in Travis County. There are statutes which make it the duty of State departments to act in matters of this nature. Therefore, it would not change any policy of the State if venue in all such cases was given to the district courts of Travis County as well as the courts of the county in which the actual or threatened violation occurred, and it would facilitate the disposition of business of this character. Instances might be cited in which the effectiveness of the remedy is destroyed by reason of the few terms of court held in the county. Injunction proceeding restraining criminal law violation, where authorized by law, is not a harsh remedy and its effectiveness could be increased by incorporating a further exception to the general venue rule.

The Supreme Court of the United States has held Article 3107, Revised Civil Statutes, 1925, is violative of a provision of the Constitution of the United States. I submit for your consideration the repeal of this article and the enactment of a statute which will vest power in the Executive Committee of the several political parties to determine the qualifications requisite to membership in such parties.

Article 3137, Revised Civil Statutes, 1925, provided that the State Executive Committee shall meet on the second Monday after the fourth Saturday in August for the purpose of canvassing returns of the preceding primary election. This statute allows only a period of about eight

days within which the votes may be counted and returns made to the State Executive Committee. In the past it has been impossible to secure complete returns by that date, and general confusion and considerable inconvenience resulted from this cause.

Articles 3136 and 3139, Revised Civil Statutes, 1925, have to do with the State Convention held subsequent to the canvassing of the returns provided for in Article 3137. These statutes also contemplate the meeting of the State Executive Committee for canvassing the returns on the second Monday after the fourth Saturday in August. The subject of amending these statutes to grant additional time within which the vote may be counted and the returns made to the Executive Committee and of properly providing for the holding of the conventions contemplated by the statute is submitted for your consideration.

There is no adequate provision in the statute at this time for filling a vacancy in the office of county superintendent. Article 2355, Revised Civil Statutes, 1925, makes provision for certain vacancies in county offices to be filled by action of the commissioners court, but it does not embrace vacancies in the office of county superintendent. The subject of making provision for filling vacancies in the office of county school superintendent is submitted for your consideration. It is my information that there now exists in this State vacancies in the office of county superintendent and that there is no proper authority to provide for filling such vacancies.

At the last general election a proposed amendment to the Constitution providing for the payment of taxes on school lands owned by counties was ratified by the people. No law has been passed enabling the proper authority to pay such taxes or specifying the funds from which the same are to be paid. The subject of an enabling act to authorize the proper authorities to pay such taxes and to fix funds from which same are to be paid is submitted for your consideration.

The subject of amending Chapter 290, page 435, General Laws of the Regular Session of the Fortieth Legislature, to correct the conflict

therein is submitted for your consideration.

Chapter 4, Title 128, Revised Civil Statutes, 1925, provides for the creation of conservation districts to be known as Fresh Water Supply Districts for the purpose of conserving, transporting and distributing fresh water for domestic and commercial uses. Under this Chapter elections are held and bonds are issued. Article 7884 provides that a time and place shall be fixed at which a hearing shall be held by the commissioners court on the petition for any such election. The notice of such hearing, as provided by Article 7884, shall inform the persons concerned of their right to appear and contest the genuineness of said petition and the signatures thereto and whether the petitioners are qualified voters.

Article 7887 provides for the finding of the court upon the hearing provided for in Article 7884. Article 7887 simply provides that if upon the hearing of the petition it is found that the same is signed by the number of voters required by law and the petition conforms to the law, the court shall so find and shall order an election. No provision is made to give the persons living within the contemplated district a hearing on the question of the probable benefits to be derived from the establishment of such a district, or whether or not any benefits would be derived by the property to be taxed for the payment of bonds to be issued by the proposed district. In the present condition, Article 7884 and Article 7887 seem to place our fresh water supply districts bonds within the rule laid down by the Supreme Court of the United States in the Archer County case.

Three changes are necessary in these articles with reference to fresh water supply districts. First, Article 7884 ought to provide that the notice of the hearing should advise the persons living within the district that they would have an opportunity to contest the matter of benefits to be derived by the establishment of the district; second, Article 7887 should require that the court find upon the hearing that a benefit would accrue to the property owners by the establishment of the district; and third, a general validating act should be passed validat-

ing any bonds which may have been issued under the terms of Chapter 4, Title 128.

At present there is \$355,000.00 in the State Treasury to the credit of the "suspense fund". This money, I am advised comes from mineral operations on State land. It is recommended that this fund be transferred to the general revenue fund of the State.

Under present laws the royalties arising from mineral operations on submerged State lands is paid into the game fund. The revenue from this source amounts annually to many thousand dollars. The subject of passing a bill to bring this to the general revenue fund is submitted for your consideration.

Each of these suggestions has the support of the department now receiving this revenue.

In the regular session of the legislature a bill was passed amending Article 1728, Revised Civil Statutes, 1925, relating to the appellate jurisdiction of the Supreme Court. The amendment of this statute without a clause to provide for the saving of pending cases before the Supreme Court may destroy rights in many pending cases. The subject of passing a saving clause to preserve the rights of the parties in cases taken to the Supreme Court under the statute amended and now pending is submitted for your consideration.

Chapter 20, Acts of the Regular Session of the Fortieth Legislature, makes provision for the redemption of land sold under judgment for taxes levied by or for any district organized under the laws of this State, and provides that the laws applying to redemption of land sold under judgment for the collection of taxes for State and county purposes should be applied. In the recodification of the statutes, the law providing for the redemption of land sold for the collection of State and county taxes was omitted from the codification of 1925. The subject of passing a law to provide for the redemption of land sold for the collection of State and county taxes is submitted for your consideration.

I also submit the subject of making Chapter 20, Acts of the Regular Session of the Fortieth Legislature to conform to such statute as you may pass providing for the redemp-

tion of land sold for collection of State and county taxes.

The amendment of Article 5523, Revised Civil Statutes, 1925, to provide for the validation of defective acknowledgments of married women to deeds and other instruments affecting title to land is submitted for your consideration.

The amendment of Article 5519, Revised Civil Statutes, 1925, to provide for the quieting of land title is submitted for your consideration.

The amendment of Article 7373, Revised Civil Statutes, 1925, to provide for what may be proven under a plea of not guilty in trespass to try title suits, so as to make the recodification of the statutes conform to the long standing rule on this subject, is submitted for your consideration.

The submission of amendments affecting judicial procedure and practice may be considered as including bills affecting the jurisdiction of courts.

Respectfully submitted,
DAN MOODY,
Governor of Texas.

Simple Resolution No. 25.

Senator Wood sent up the following resolution:

Whereas, The Highway Department is prosecuting an extensive road program in the State, and

Whereas, Road material is in great demand and concrete roads seem to be the prevailing type now advocated, and

Whereas, For a number of years to come it seems that concrete for the purpose of building state roads will be greatly in demand, and

Whereas, Many million dollars are spent annually for the purpose of purchasing concrete for road building purposes, and

Whereas, The State now has no cement manufacturing plant, and

Whereas, The State has adequate and sufficient labor in the State penitentiary to operate a cement plant for the purpose of manufacturing cement for state use on public roads and elsewhere,

Therefore be it Resolved by the Texas Senate, That the Board of Control and the Highway Commission together make an estimate as to the approximate cost of a cement plant and determine as nearly as possible the actual cost to

manufacture cement and just what the same can be furnished to the State for the purposes above mentioned, and further advise if they deem feasible the construction of a cement plant, a possible location for same and the probable saving to the State and the various counties of the State because of the building of said plant; and further furnish this information at the earliest date possible in order that the Senate may be advised, and if this cannot be done at this session, then that they prepare and have the same ready to submit to the Senate at the next convening of the Texas Legislature; and that a copy of this resolution be sent to the Board of Control and the Highway Commission of Texas.

WOODWARD.

The resolution was read and adopted.

Adjournment.

The Senate at 3:15 p. m., on the motion of Senator Wood, adjourned until tomorrow morning (Friday) at 10:00 o'clock a. m.

APPENDIX.

Petitions and Memorials.

Headquarters, Daughters of the Republic of Texas.

Austin, Texas, May 22, 1927.

Hon. Barry Miller, President of the Senate:

Members of William B. Travis Chapter Daughters of the Republic of Texas, cordially invite the Senators and their wives to be their guests at the silver tea on the afternoon of Wednesday, June 1, 1927, from 4 to 7, at the Museum of the Daughters of the Republic of Texas.

Cordially yours,

Mrs. Paul Goldmann, Chairman,
Mrs. H. H. Sevier,
Mrs. S. J. Smith.

Dallas Section,
The Council of Jewish Women,
Dallas, Texas.

We commend the Governor, the Hon. Dan Moody, and the members of the 40th Legislature for many of the progressive measures enacted during the regular session. Both progress in the present material affairs, and a broad conception of the future of our state were combined

in the final acts of this body, in counsel with the chief executives.

We, the Texas State Conference, Council of Jewish Women, commend our Governor and representatives especially for the measure directed toward the proper care and training of delinquent colored girls. We realize, however, that this measure is only half completed. We desire to see it accomplished in the special session.

We, therefore, petition the members of the 40th Legislature, the Governor and the Lieutenant Governor to use their utmost efforts to secure an appropriation for the establishment of the training school for delinquent colored girls, which is necessary to vitalize the act of authorization passed during the regular session.

The Secretary is instructed to send a copy of this resolution to the Hon. Dan Moody, Governor; the Hon. Barry Miller, Lieutenant Governor; the Hon. Robert Lee Bobbitt, Speaker of the House; the Hon. Claude D. Teer, Chairman of the Appropriations Committee of the House; and author of the approved prison legislation; Senator A. E. Wood, Chairman of Finance Committee of the Senate.

Senator Fairchild sent up the following communication:

**Drug Stores Sell Whiskey Too High,
Pro Officer Says**

By Associated Press.

Fort Worth, May 25.—Exorbitant prices are being charged for prescription whiskey by some drug stores. Frank V. Wright, prohibition administrator, declared in a public statement issued here Wednesday.

"The public is being forced to pay from \$48 to \$56 a gallon for medicinal liquor costing the handler but \$10 a gallon," he said.

"Four dollars a pint is being charged by some drug stores holding permits in Dallas, Fort Worth and other Texas cities—\$32 a gallon for whiskey that costs about \$10 a gallon. Add to that \$2 a pint and public pays \$6 to \$7 a pint, or \$48 to \$56 a gallon for medicinal liquor.

"It is all wrong and out of line with the profits demanded on other drug store commodities. The federal department says the people may have a certain amount of whiskey

for medicinal uses under certain prescribed regulations. True the law does not say what price the druggist who handles this liquor may charge, but it is quite evident that he might reasonably be expected to reduce prevailing prices considerably.

"Certainly the government does not intend that prescription whiskey be classified as a luxury or that permittees to be given any license to demand unreasonable profit from the public."

Committee on Engrossed Bills.

Committee Room,

Austin, Texas, May 26, 1927.

Hon. Barry Miller, President of the Senate.

Sir, We, your Committee on Engrossed Bills, have had S. C. R. No. 4 carefully examined and compared, and find the same correctly engrossed.

WESTBROOK, Chairman.

Committee Room,

Austin, Texas, May 26, 1927.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 7 carefully examined and compared, and find the same correctly engrossed.

WESTBROOK, Chairman.

Committee Room,

Austin, Texas, May 26, 1927.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 23 carefully examined and compared, and find the same correctly engrossed.

WESTBROOK, Chairman.

Committee Room,

Austin, Texas, May 26, 1927.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 25 carefully examined and compared, and find the same correctly engrossed.

WESTBROOK, Chairman.

Committee Room,

Austin, Texas, May 26, 1927.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 25 carefully examined and compared,

and find the same correctly engrossed.

WESTBROOK, Chairman.

Committee Room,
Austin, Texas, May 26, 1927.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 26 carefully examined and compared, and find the same correctly engrossed.

WESTBROOK, Chairman.

Committee Room,
Austin, Texas, May 26, 1927.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 31 carefully examined and compared, and find the same correctly engrossed.

WESTBROOK, Chairman.

Committee Reports.

Committee Room,
Austin, Texas, May 26, 1927.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

S. B. No. 20, A bill to be entitled "An Act providing for a State Highway Commission to be composed of three elective members, one member to be elected from each of three State Highway Districts defined in this Act; providing for their election at the general election in 1928 and for them to take office the first day of the next January; providing for their terms, compensation, bond, oath, duties and qualifications; providing for a chairman of said State Highway Commission; providing how vacancies shall be filled enacting things necessary to better provide for a State Highway Commission and a State Highway Department; repealing all laws in conflict herewith; and declaring an emergency."

Have had the same under consideration, and I am instructed to report same back to the Senate with the recommendation that it do not pass.

WIRTZ, Chairman.

(Majority Report.)

Committee Room,
Austin, Texas, May 26, 1927.
Hon. Barry Miller, President of the Senate.

Sir: We, a majority of your Committee on State Affairs, to whom was referred

S. B. No. 21, A bill to be entitled "An Act providing more adequately for the construction and maintenance of a system of highways in this State; making better provision for a State Highway Department and providing means and regulations under which said Department may function as to all matters committed to its authority; enacting provisions so that said objects may be accomplished through the agency of the State Highway Department and the various Commissioners' Courts, vesting each such agency with its own proper function; granting the State Highway Commission ample authority in order to perform its duties, and giving Commissioners Courts a voice in road matters wherever counties furnish funds in connection with same; providing for expenditures, contracts and purchases of and for the Highway Commission under proper safeguards and regulations; repealing laws wherever necessary to do so in order to carry out the purposes of this Act; providing all things necessary and incidental to the subject and purpose of this act whether mentioned in detail in this caption or not; and declaring an emergency."

Have had the same under consideration, and I am instructed to report same back to the Senate with the recommendation that it do not pass.

WIRTZ, Chairman.

(Minority Report.)

Committee Room,
Austin, Texas, May 26, 1927.
Hon. Barry Miller, President of the Senate.

Sir: We, a minority of your Committee on State Affairs, to whom was referred

S. B. No. 21, A bill to be entitled "An Act providing more adequately for the construction and maintenance of a system of highways in this State; making better provision for a State Highway Department and providing means and regulations under which said Department may function as to all matters committed to its authority; enacting provisions so that said objects may be accomplished through the agency of the State Highway Department and

the various Commissioners' Courts, vesting each such agency with its own proper function; granting the State Highway Commission ample authority in order to perform its duties, and giving Commissioners Courts a voice in road matters wherever counties furnish funds in connection with same; providing for expenditures, contracts and purchases of and for the Highway Commission under proper safeguards and regulations; repealing laws wherever necessary to do so in order to carry out the purposes of this Act; providing all things necessary and incidental to the subject and purpose of this Act whether mentioned in detail in this caption or not; and declaring an emergency."

Beg leave to differ with the majority, and report same back to the Senate with the recommendation that it do pass.

WOOD, Chairman.

(Majority Report.)

Committee Room,

Austin, Texas, May 26, 1927.

Hon. Barry Miller, President of the Senate.

Sir: We, a majority of your Committee on State Affairs, to whom was referred

S. B. No. 17, A bill to be entitled "An Act amending Articles 6663 to 6674 both inclusive of the Revised Civil Statutes of 1925 relating to highways and the Highway Department of the State of Texas; etc."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass, with the attached committee amendments, and that it be printed in the Journal and not otherwise.

WIRTZ, Chairman.

Committee Amendment No. 1.

Amend Section 2, Senate Bill No. 17, by striking therefrom the last 7 lines reading as follows:

"who shall execute bond payable to the Governor of the State of Texas, and his successor in office, in the sum of \$10,000.00, to be approved by the Governor, and conditioned upon the faithful performance of his duties of office, to be filed in the office of the Secretary of State. The premium on such bond shall be paid by the State out of the State Highway funds, and he shall also

take the oath of office as prescribed by the Constitution of the State of Texas."

And in lieu thereof insert the following:

"And shall employ a manager who shall devote all of his time to the duties of his office, such duties to be prescribed by the Commission, and who shall execute bond payable to the Governor of the State of Texas and his successors in office, in the sum of \$10,000.00 to be approved by the Governor, and conditioned upon the faithful performance of his duties of office, to be filed in the office of the Secretary of State. The premium on said bond shall be paid by the State out of the State Highway funds and such manager shall take the oath of office prescribed by the Constitution of the State of Texas."

Committee Amendment No. 2.

Amend Section 13, Senate Bill No. 17, by striking out of the second sentence the following:

"the compensation of the Chairman of the Commission shall be \$7,500.00 per annum, payable monthly"

Committee Amendment No. 3.

Amend Section 14 of Senate Bill No. 17, by striking out of the last paragraph the following:

"The chairman when selected shall give a bond and take the oath as provided in Section 2 of this Act, and each of other said members"

And in lieu thereof insert the following:

"The Chairman and each of the members"

Committee Amendment No. 4.

Amend Section 14, by striking out of the last paragraph the following:

"That the Chairman of the Highway Commission, during his tenure of office, shall reside in Travis County, Texas, and shall devote his entire time and attention to the duties of his office."

And in lieu thereof insert the following:

"The Chairman of the Highway Commission shall preside over all meetings of the Commission"

(Minority Report.)

Committee Room,

Austin, Texas, May 26, 1927.

Hon. Barry Miller, President of the Senate.

Sir: We, a minority of your Committee on State Affairs, to whom was referred

S. B. No. 17, A bill to be entitled "An Act amending Articles 6663 to 6674 both inclusive of the Revised Civil Statutes of 1925, relating to highways and the Highway Department of the State of Texas; etc."

Have had the same under consideration, and beg leave to differ with the majority, and report same back to the Senate with the recommendation that it do not pass.

WOOD,

TRIPLETT.

By Stuart.

S. B. No. 17.

A BILL

To Be Entitled

An Act amending Articles 6663 to 6674 both inclusive, of the Revised Civil Statutes of 1925 relating to highways and the Highway Department of the State of Texas; providing for a State Highway Commission to be composed of nine members, one of such members to be appointed from each of nine different districts of the State described in the Act; providing the manner of their appointment, their term of office, compensation, bond, oath of office and duties; providing for a chairman of said Commission and fixing his compensation and requiring that he shall reside in Travis County during his tenure of office and devote his entire time to the duties of his office; providing for the appointment of district engineers and subordinate engineers; providing for a State Highway Engineer; providing for meetings of the Commission and for rules and regulations for the conduct of the work of the State Highway Department; providing for the collection of information and statistics in reference to the public roads; providing for cooperation with cities and towns in connection with highways through such cities and towns and regulating the construction of highways through the same; providing for engineers and the rules and regulations necessary in connection with same; providing for a complete road map and a comprehensive plan for State highways; enacting necessary provisions in reference

to funds appropriated by the Federal government in connection with roads in this State and in reference to the taking over and maintenance of various State highways in Texas; providing for vacancies to be filled by the Governor occurring on the State Highway Commission; making better provision for a Highway Department and for the improvement of highways in this State; enacting all things necessary and incidental to the main purpose and subject of this Act whether mentioned in detail in this caption or not; enacting the necessary provisions to give counties a voice in road matters wherever such counties furnish moneys in connection with road work on State designated highways; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Article 6663 of the Revised Civil Statutes of 1925 relating to State Highway Department be amended so as to hereafter read as follows:

The Administrative control of the State Highway Department hereinafter called "the Department" shall be vested in the State Highway Commission hereinafter called "The Commission"; said Department shall have its office at Austin, Texas, where its records shall be kept.

Sec. 2. Article 6664 of the Revised Civil Statutes of 1925 relating to State Highway Commission, shall be amended so as to hereafter read as follows:

The Commission shall consist of nine citizens of the State of Texas who shall have resided in Texas for at least five years next before their appointment and who shall have reached the age of twenty-five years before their appointment, and who shall have resided in the district from which they are appointed at least one year next before their appointment. With the advice and consent of the Senate the Governor shall bi-ennially appoint three members to serve for a term of six years, such appointment to be made, one member from each district of the State of Texas, as hereinafter set out, wherein the State of Texas is divided into nine State Highway Districts; said nine members, when so appointed shall elect one of their

members as Chairman, who shall execute a bond payable to the Governor of the State of Texas, and his successor in office, in the sum of \$10,000.00, to be approved by the Governor, and conditioned upon the faithful performance of his duties of office, to be filed in the office of the Secretary of State. The premium on such bond shall be paid by the State out of the State Highway funds, and he shall also take the oath of office as prescribed by the Constitution of the State of Texas.

Sec. 3. That Article 6665 of the Revised Civil Statutes of 1925 relating to the organization of State Highway Commission be amended so as to hereafter read as follows:

The Commission shall hold regular meetings twice each month; each member shall attend the same and such special or called meetings as they may provide or that the Chairman may call; they shall formulate plans and policies for the location, construction and maintenance of a comprehensive State Highway System; they shall bi-ennially submit a report of their work to the Governor and the Legislature with their recommendations and those of the State Highway Engineer's. A quarterly statement containing an itemized bill of all monies received and from what sources, and all monies paid out and for what purposes, shall be prepared and filed in the records of the Department and a copy thereof sent to the Governor; these records shall be open for public inspection.

Sec. 4. That Article 6666 of the Revised Civil Statutes of 1925 relating to the rules of the State Highway Commission be amended so as to hereafter read as follows:

The Commission shall establish and make public proclamation of all rules and regulations for the conduct of the work of the Department as may be deemed necessary, not inconsistent with the provisions of law; they shall maintain a record of all proceedings and official orders and keep on file copies of all road plans, specifications and estimates prepared by the Department or under its directions, and such copies shall be open to public inspection.

Sec. 5. Article 6667 of the Revised Civil Statutes relating to aid to officials be amended so as to hereafter read as follows:

The Department shall collect information and compile statistics relative to mileage, character and condition of the public roads in the different counties, and the cost of construction of the different classes of roads in the various counties. It shall investigate and determine the methods of road construction best adapted to the different sections of the State, and shall establish standards for the construction and maintenance of highways, bridges and ferries, giving due regard to all natural conditions, and to the character and adaptability of road building material in the different counties and the cost thereof. The Department may at all reasonable times be consulted by county or city officials for any information or assistance it can render with reference to highways within such counties or cities, and it shall supply such information, if called for by city or county officials. Upon request of the Commissioners Court of any county or the County Judge thereof, the Department shall consider and advise concerning general plans and specifications for all road construction to be undertaken from the proceeds of the sale of bonds or other legal obligation issued by a county or by any subdivision or defined district or county.

Sec. 6. The State Highway Commission shall be authorized and it shall be the duty of the Commission to cooperate with all cities and towns in the construction of highways through such cities and towns; it shall be its duty to pay its proportionate part of the construction of such highways through cities and towns in proportion to the amount that is expended by the State upon the construction of such highways in the county adjoining such cities or towns.

Sec. 7. That Article 6668 of the Revised Civil Statutes of 1925 relating to qualifications of engineers be amended so as to hereafter read as follows:

The Department shall adopt such rules as are found necessary to determine fitness of engineers making application for highway construction work upon the formal application of any county or road district thereof or any municipality, and upon request by any such county, road dis-

trict or municipality to report thereon.

Sec. 8. That Article 6669 of the Revised Civil Statutes of 1925 relating to State Highway Engineer be amended so as to hereafter read as follows:

The Commission shall elect the Highway Engineer who shall be a competent civil engineer, a graduate of some first class school of civil engineering and who shall be skilled and experienced in Highway construction and maintenance and who shall have been engaged in highway engineering work for a period of five years; who shall hold his position without term until removed by the Commission, or shall have resigned of his own volition; he shall execute a bond payable to the State in such sum as the Commission may determine, to be approved by the Commission and filed in the office of the Secretary of State, conditioned upon the faithful performance of his duties; the premium on said bond shall be paid out of the State Highway funds; he shall devote his entire time to the duties of his office and shall act with the Commission in an advisory capacity without vote, and shall quarterly and bi-ennially and annually submit to the Commission a detailed report of the progress of public road construction and an itemized statement of expenditures; he shall be allowed all actual traveling and other expenses under the direction of the Commission while absent from Austin in the performance of the duties of his office.

Sec. 9. That Article 6670 of the Revised Civil Statutes of 1925 relating to State road map be amended so as to hereafter read as follows:

The Highway Engineer shall cause to be made and kept in form convenient for examination in the office of the Department, a complete road map of the State, and especially of the designated highways of the State as represented in the road construction of various counties, and such map shall be regularly revised as construction proceeds in the different counties. He shall prepare, under the direction and with the approval of the Commission, a comprehensive plan providing a system of State Highways, including therein all of the designated highways of the State of Texas that have hereto-

fore been designated, or that may be designated hereafter.

Sec. 10. That Article 6671 of the Revised Civil Statutes of 1925 relating to laboratories and research be amended so as to hereafter read as follows:

The laboratories maintained at the Agricultural and Mechanical College of Texas, and at the University of Texas shall be at the disposal of the State Highway Engineer for the purpose of testing and analyzing road and bridge material, and those in charge of such laboratories shall cooperate with and assist said Engineer to that end.

Sec. 11. That Article 6672 of the Revised Civil Statutes of 1925 relating to Federal aid, be amended so as to hereafter read as follows:

Any funds for public road construction in this State appropriated by the Federal Government shall be expended by and under the supervision of the Department only upon the part of the system of State Highways designated as Federal aid roads and approved by the United States Bureau of Public Roads.

Sec. 12. That Article 6673 of the Revised Civil Statutes of 1925 relating to control of highways be amended so as to hereafter read as follows:

The Commission is authorized to take over and maintain the various State highways in Texas, and the counties through which such highways shall pass shall be free from any cost, expense of supervision of such highways. The Commission shall use such proportion of the automobile registration fees as may be apportioned to it, if any, by the Legislature, for the maintenance of such highways, and shall not divert the same to any other use unless the Commission shall be without sufficient funds from other sources to meet Federal aid in road construction work in Texas, and in such case, only by resolution of the Commission, stating the amount of such transfer, and that the same is to be used to match Federal Aid.

Sec. 13. That Article 6674 of the Revised Civil Statutes of 1925, relating to operating expenses of the Highway Commission be amended to hereafter read as follows:

The Legislature shall make appropriations for the maintenance and running expenses of the Depart-

ment, fixing the compensation of the State Highway Engineer and all other employees of the Department. The compensation of the Chairman of the Commission shall be \$7,500.-00 per annum payable monthly, and \$20.00 per day shall be paid to each Commissioner for each day that he attends the meeting of the Commission and for each day that he devotes to the actual road supervision of his district, provided however that he shall not be allowed compensation for more than eight (8) days in any one month; he shall be allowed actual traveling expenses in going to and from Austin and in traveling over his district in the supervision of the Highways thereof, to be approved by the Highway Commission, and paid out of the funds thereof, payable monthly. The Board of Control shall make contracts for equipment and supplies, including seals and number plates required by law in administration of the registration of licensed vehicles, and in the operation of said Department. The money herein authorized to be appropriated for the operation of the Department and the purchase of equipment shall be paid from the State Highway fund, and the remainder of said fund shall be expended by the Commission for the furtherance of public road construction and maintenance and the establishment of a system of State Highways as herein provided. That all other members of the Highway Commission shall devote at least four days and not to exceed eight (8) days per month to the performance of their duties of office and each shall reside in the district from which he is appointed during his tenure of office.

Sec. 14. That the State of Texas is hereby divided into nine State Highway Districts, numbered consecutively from 1 to 9, inc.

District No. 1 to be comprised of the following counties:

Dallam, Sherman, Hansford, Ochiltree, Lipscomb, Hartley, Moore, Hutchinson, Roberts, Hemphill, Oldham, Potter, Carson, Gray, Wheeler, Deaf Smith, Randall, Armstrong, Donley, Collingsworth, Parmer, Castro, Swisher, Briscoe, Hall, Childress, Bailey, Lamb, Hale, Floyd, Motley, Cottle, Hardeman, Foard, Wilbarger, Wichita, Archer, Baylor,

Knox, King, Dickens, Crosby, Lubbock, Hockley, and Cochran.

District No. 2 to be comprised of the following counties:

Clay, Montague, Cooke, Grayson, Young, Jack, Wise, Denton, Stephens, Palo Pinto, Parker, Tarrant, Eastland, Erath, Hood, Johnson, Comanche, Hamilton, Bosque, Mills, Lampasas, Somervell, and Coryell.

District No. 3 to be comprised of the following counties:

Fannin, Lamar, Red River, Bowie, Cass, Morris, Titus, Camp, Franklin, Delta, Hopkins, Hunt, Collin, Dallas, Rockwall, Rains, Wood, Upshur, Marion, and Harrison.

District No. 4 to be comprised of the following counties:

Kaufman, Van Zandt, Smith, Gregg, Panola, Rusk, Cherokee, Henderson, Anderson, Shelby, Nacogdoches, Houston, Leon, Madison, Grimes, Walker, San Jacinto, Polk, Trinity, Angelina, San Augustine, Sabine, Newton, Jasper, Tyler.

District No. 5 to be comprised of the following counties:

Ellis, Navarro, Hill, McLennan, Limestone, Freestone, Robertson, Falls, Bell, Milam, Williamson, Burnet, Travis, Llano, Blanco, Hays, Caldwell, Bastrop, Lee, Burleson, Brazos, Fayette, Austin, and Washington.

District No. 6 to be comprised of the following counties:

Orange, Hardin, Liberty, Montgomery, Waller, Harris, Chambers, Jefferson, Galveston, Brazoria, Fort Bend, Colorado, Wharton, Matagorda, Calhoun, Jackson, Lavaca, Gonzales, DeWitt, Goliad, Victoria, Refugio and Aransas.

District No. 7 to be comprised of the following counties:

Kent, Stonewall, Haskell, Throckmorton, Scurry, Fisher, Jones, Shackelford, Mitchell, Nolan, Taylor, Calahan, Sterling, Coke, Runnels, Coleman, Brown, Irion, Tom Green, Concho, McCulloch, San Saba, Schleicher, Menard, Mason, Sutton, Kimble, Gillespie, Val Verde, Edwards, Real and Kerr.

District No. 8 to be comprised of the following counties:

Kinney, Uvalde, Bandera, Medina, Kendall, Comal, Bexar, Guadalupe, Wilson, Karnes, Atascosa, Frio, Zavala, Maverick, Dimmit, LaSalle, McMullen, Live Oak, Bee, San Patricio, Jim Wells, Nueces, Duval,

Webb, Zapata, Jim Hogg, Brooks, Kenedy, Willacy, Cameron, Hidalgo, Sfarr and Kleberg.

District No. 9 to be comprised of the following counties:

El Paso, Hudspeth, Culberson, Reeves, Loving, Winkler, Andrews, Martin, Howard, Glasscock, Midland, Ector, Reagan, Upton, Crane, Ward, Jeff Davis, Pecos, Crockett, Terrell, Brewster, Presidio, Yoakum, Terry, Lynn, Garza, Borden, Dawson and Gaines.

That the State Highway Commission shall be composed of one member from each of said districts. The Chairman, when selected, shall give a bond and take the oath as provided in Section 2 of this Act, and each of other said members shall give a bond in the sum of five thousand (\$5,000.00) dollars, payable to the Governor of the State of Texas and his successors in office, to be approved by the Governor, conditioned upon the faithful performance of the duties of his office, and shall also take oath provided by the Constitution for State officers. (That the Chairman of the Highway Commission, during his tenure of office, shall reside in Travis County, Texas, and shall devote his entire time and attention to the duties of his office.)

Sec. 15. That any vacancy occurring on the State Highway Commission shall be filled by the Governor, to be confirmed by the Senate when convened, as now provided by law, and such successor shall have the same duties and authority as his predecessor had during the term for which he is appointed.

Sec. 16. Each Commissioner shall appoint, subject to confirmation by the Commission, a district engineer who shall work under the supervision of the Commissioner of his district and shall devote his entire time to the highway work in the district from which he is appointed, such engineer shall be a competent civil engineer and a graduate of some first class school of engineering; he shall have practiced his profession for not less than five years and shall be experienced and skilled in highway construction and maintenance; he shall hold his position without term until removed by the Commissioner appointing him or shall have resigned of his own volition; he shall execute a bond payable to the

State in such sum as the Commission may determine, to be approved by the Commission and filed in the office of the Secretary of State, conditioned upon the faithful performance of his duties, the premium on such bond shall be paid by the State out of the State Highway funds; he shall act with the Commissioner of his district in an advisory capacity but it shall be his duty to carry out the instructions, plans and policies of the Commissioner of his district; he shall quarterly, annually and biennially submit to the Commissioner of his district a detailed report of the progress of highway construction in his district.

Sec. 17. Each District Engineer shall receive as compensation for his services \$5,000.00 per annum, payable monthly, out of the funds of the Highway Department. Each District Engineer shall select subordinate engineers serving under him, subject to confirmation by the State Highway Commission.

Sec. 18. Immediately upon the taking effect of this Act, or within 30 days thereafter, the Governor shall appoint the nine members provided for in this Act and shall designate that three of them serve for two years, three of them for four years, and three of them for six years, and thereafter the appointments shall be made as provided in Section 2 of this Act.

Sec. 19. That Articles 6663, 6664, 6665, 6666, 6667, 6668, 6669, 6670, 6671, 6672, 6673, and 6674, of the Revised Civil Statutes of 1925, except insofar as herein written, are hereby repealed.

Sec. 20. If any section, clause, requirement, provision or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not invalidate the remainder of this Act, but shall be confined in its operation to the section, clause, requirement provision or part thereof declared to be invalid.

Sec. 21. That this Act shall be cumulative of all other laws relating to the State Highway Commission not in conflict herewith but wherein any conflict exists, this law shall be in effect, and such conflict in any existing law is hereby repealed.

Sec. 22. Where no federal aid is involved the Commission shall let

and enter into all contracts for road and bridge construction on the State Designated highways of this State and the bids therefor shall be opened and the contract let in the county where the work is to be performed, or, if the project be partly in different counties, then in either of such counties, at the county seat thereof, and such contract shall not be effective until approved by the commissioners court of such county by an order entered upon the minutes of such court. Where federal aid is involved and the county furnishes any money in connection with the project, the contract shall be let at Austin but the county shall have a representative present at the opening of the bids and the letting of the contract, and before the work is commenced it shall be necessary for the commissioners court to approve such contract. In all cases where a county furnishes part of the cost of improvement on State Designated Highways the county shall have a voice in the type of construction and the right to have the county's engineer approve the work before all payments of county moneys are made.

Sec. 23. The fact that large areas of the State of Texas, located at considerable distance from the capital of the State are unable to confer with members of the State Highway Commission who are familiar with the conditions and affairs in their particular section of the State and to receive advice and counsel from the State Highway Commission relative to road matters, except by a journey to Austin at a time when the Highway Commission is in session, and the further fact that it is impossible for three men to keep in touch with the needs and requirements of the various counties in the State of Texas, and that the services of the State Highway Commission be available in all parts of the State at all times, and especially that the Chairman of said Commission be available for advice and counsel at the State Highway Commission at Austin at all times, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each House be suspended, and said rule is hereby suspended, and that this Act shall take

effect and be in force from and after its passage, and it is so enacted.

Committee Room.

Austin, Texas, May 26, 1927.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred S. B. No. 34, A bill to be entitled "An Act amending Article 5160 of the Revised Civil Statutes of 1925; providing more adequate and better regulations and provisions in connection with bonds where a person or persons, firm or corporation, enter into a formal contract with this State or its counties or school districts or for any subdivisions thereof or any municipality therein for the construction of any public building or the prosecution and completion of any public work; prescribing what bonds shall be executed in connection therewith and the obligation that they shall contain relative to making payments to all persons supplying labor and materials in connection with the contract; providing more particularly what debts shall be secured by said bonds and providing for filing claims under oath with the contractor or with the county clerk; providing all things necessary and incidental to any such bonds and to the subject and purpose of this Act whether mentioned in detail in this caption or not; and declaring an emergency."

Have had the same under consideration, and I am instructed to report same back to the Senate with the recommendation that it do pass and be printed in the journal but not otherwise.

WIRTZ, Chairman.

By Wood.

S. B. No. 34.

A BILL

To Be Entitled

An Act amending Article 5160 of the Revised Civil Statutes of 1925; providing more adequate and better regulations and provisions in connection with bonds where a person or persons, firm or corporation, enter into a formal contract with this State or its counties or school districts, or for subdivisions thereof or any municipality therein for the construction of any public building or the prosecution and completion of any public work; prescribing what bonds shall be

executed in connection therewith and the obligation that they shall contain relative to making payments to all persons supplying labor and materials in connection with the contract; providing more particularly what debts shall be secured by said bonds and providing for filing claims under oath with the contractor or with the county clerk; providing all things necessary and incidental to any such bonds and to the subject and purpose of this Act whether mentioned in detail in this caption or not; and declaring an emergency. Be it enacted by the Legislature of the State of Texas:

Section 1. That Article 5160 of the Revised Civil Statutes of Texas be amended so as to hereafter read as follows:

"Art. 5160. Any person or persons, firm or corporation, entering into a formal contract with this State or its counties or school districts or for subdivisions thereof or any municipality therein for the construction of any public building or the prosecution and completion of any public work, shall be required, before commencing such work, to execute the usual penal bond, with the additional obligation that such contractor shall promptly make payments to all persons supplying him or them with labor and materials in the prosecution of the work provided for in said contract. Any person, company or corporation who has furnished labor or materials used in the construction or repair of any public building or public work, and payment for which has not been made, shall have the right to intervene and be made a party to any action instituted by the State or any municipality on the bond of the contractor, and to have their rights and claims adjudicated in said action and judgment rendered thereon, subject however, to the priority of the claims and judgments of the State or municipality. If the full amount of the liability or the surety on said bond is insufficient to pay the full amount of said claims and demands, then, after paying the full amount due the state or municipality, the remainder shall be distributed pro rata among said intervenors. Provided further, that no person, firm or corporation shall be secured in the payment of any claim

contracted prior to the execution of the contract that said bond is given to secure, and provided further that all claims for labor or material shall be itemized, and sworn to by the owner or his authorized agent and filed with the contractor or with the county clerk of the county in which said work is being prosecuted, within thirty days from the date that said claim matured and became payable, and any claim filed after thirty days shall not be secured by said bond."

Sec. 2. The fact that there is now no law providing that persons, firms and corporations shall not be secured on the contractor's bond for claims made prior to the contractor's contract, and further there is no law requiring the filing of said contract within a reasonable time creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each House be suspended, and said rule is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

Committee Room,
Austin, Texas, May 26, 1927.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Education, to whom was referred

S. B. No. 42, A bill to be entitled "An Act relating to free textbooks for the public free schools of this State; amending Sections 30, 31, 33, 34 and 39, and repealing Sections 40 and 41, of Chapter 176 of the General Laws of the Regular Session of the Thirty-ninth Legislature of this State; providing for the setting aside of funds for free textbooks used in the public free schools of this State; requiring reports as to the funds for said textbooks; providing for the distribution of the amount set aside for free textbooks direct to the schools using such books and the purchase of same by such schools themselves from the various textbook depositories or agencies, and providing that any free textbook moneys not so used by any such school shall become a part of its available school moneys and may be used by it for general school purposes; making the necessary changes in the statutes to accomplish the

main purpose of this Act; and declaring an emergency."

Have had the same under consideration, and I am instructed to report same back with the recommendation that it do pass and be printed in the Journal.

WITT, Chairman.

By Witt, Neal, Wood, S. B. No. 34.
Reid, Westbrook,
Greer, Fairchild.

A BILL

To Be Entitled

An Act relating to free textbooks for the public free schools of this State; amending Sections 30, 31, 33, 34 and 39, and repealing Sections 40 and 41, of Chapter 176 of the General Laws of the Regular Session of the Thirty-ninth Legislature of this State; providing for the setting aside of funds for free textbooks used in the public free schools of this State; requiring reports as to the funds for said textbooks; providing for the distribution of the amount set aside for free textbooks direct to the schools using such books and the purchase of same by such schools themselves from the various textbook depositories or agencies, and providing that any free textbook moneys not so used by any such school shall become a part of its available school moneys and may be used by it for general school purposes; making the necessary changes in the statutes to accomplish the main purpose of this Act; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. Sections 30, 31, 33, 34, and 39, of the General Laws of the Regular Session of the Thirty-ninth Legislature are each hereby amended so as to hereafter read as follows:

Sec. 30: The State Board of Education is hereby authorized and empowered, and it shall be its duty to set aside the necessary funds as provided herein for the purchase, from contractors, of textbooks used in the public free schools of this State without other cost to the pupils attending such schools within this State.

Sec. 31: In order to carry out the provisions of this Act, the State Board of Education shall an-

nually, at a meeting designated by them each year, set apart out of the available free school fund of the State, an amount sufficient to purchase the necessary school books by the school authorities for the use of the pupils of this State for the scholastic year ensuing.

Sec. 33: The State Board of Education shall require from the State Superintendent on July first of each year, a report as to the funds necessary for the purchase of free textbooks for the regular school session of the following year, and said Board of Education shall have the power to set apart from the available school funds the estimated amount with twenty-five per cent additional, this additional sum to be used to meet emergencies or necessities caused by unusual increase in scholastic attendance. Funds transferred into the textbook fund shall remain permanently in this fund until apportioned and paid to the school authorities as provided in this Act, and shall not lapse into any other fund at the close of the fiscal year; provided, that the State Superintendent of Public Instruction shall be required to include in said report to the State Board of Education, a statement as to the amount of this fund which is unexpended, and said amount shall be considered by the Board in determining the necessary expenditures for textbooks for the following year.

Immediately after this Act shall become effective the State Superintendent of Public Instruction shall furnish to all school authorities upon whom the duty of purchasing textbooks shall be placed by this Act a list of all adopted texts available for use by such authorities, the price of each text under said adoption, the company furnishing same under said contract, and the location of the depository where each of said books can be secured. And on or before March 1st. of each year thereafter and following the making of any new contract, the State Superintendent of Public Instruction shall furnish said authorities the same information.

Sec. 34: The free textbook fund shall not be expended for free textbooks in the manner heretofore expended but said fund shall be prorated by the State Superintendent to the several counties, cities and towns

and school districts constituting separate school organizations, according to the total enrollment of each, in the same manner as provided in Article 2663 of the Revised Civil Statutes of 1925 for the available school money, except that the apportionment need not necessarily be made monthly but shall be made at such times and in such amounts as shall be determined by the State Board of Education; and all the provisions of said Article 2663 not in conflict herewith shall apply in prorating and distributing said free textbook funds as the same apply in reference to the available school money mentioned in said Article 2663. After said moneys are so prorated and distributed, the authorities having charge of the particular school entitled to any such money shall use so much of same as necessary to purchase its own free textbooks for the use of its pupils from a State depository or agency for free textbooks. Any moneys not used for free textbooks shall become a part of the available school moneys of said school and may be used by it for general school purposes. Textbooks for all common school districts shall be purchased for such districts by the county superintendent and textbooks for all independent school districts shall be purchased by the superintendents of said independent school districts. All purchases of books shall be made by requisition upon a textbook depository or agency not later than three months before said books are required for use in the schools, provided that books may be requisitioned in case of emergency and it shall be the duty of the depository or agency to fill emergency requisitions at the earliest possible date.

Sec. 39: The State Superintendent of Public Instruction shall have authority to call upon any school authority or authorities at any time for any information necessary or available to the State Board of Education in estimating the amount of money that shall be set aside for free textbooks annually, and if any such school authority should fail or refuse to furnish said information, the apportionment and payment of free textbook money to any school under his or their charge may be

withheld until such information is so furnished.

Sec. 40: It shall be the duty of county and independent school district superintendents to draw a warrant within sixty days from date of shipment for all textbooks requisitioned by said superintendents, said warrants to be payable to the depositories or agencies shipping the books. These warrants shall be registered and paid by the county treasurer or independent school district treasurer in the order in which they are registered, and if there is no money available to pay said warrant when presented for payment, they shall be paid out of the first money available that is apportioned to said treasurer, as provided in this Act. All warrants issued as herein provided, shall bear interest at the rate of six per cent per annum, such interest to be charged from and after 90 days after delivery of books, for which issued, until payment, such date of delivery to be noted by such county or independent school district superintendent upon warrant when issued by him. The words "treasury" or "treasurer" as used in this Act shall and does include the legal depository in which, under this or any other laws, the textbook fund may be deposited.

Sec. 2. Sections 40 and 41 of Chapter 176 of the General Laws of the Regular Session of the Thirty-ninth Legislature are each hereby repealed and renumbered.

Sec. 3. The fact that under our present system of distributing free textbooks there is no incentive on the part of local school authorities to economize in ordering free textbooks, and the fact that the system herein provided for is more efficient and economical, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each House be suspended, and said rule is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

Committee Room,

Austin, Texas, May 25, 1927.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Education to whom was referred

S. B. No. 44, A bill to be entitled "An Act making provision for the continuance of teachers certificates for one year where the holder of same takes and passes four subjects or courses at a summer school of a State Teachers College or any other institution rated as first class by the State Department of Education, and defining the meaning of courses for the purpose of this Act; providing for the issuance of certificates by the State Superintendent of Education upon the recommendation of the President of the College showing such subjects or courses to have been taken and passed, the teacher's certificate to thereupon be presented to the State Department of Education and upon payment of the fee to be renewed and continued for one year; and declaring an emergency."

Have had the same under consideration and report it back with the recommendation that it do pass, and that it be printed in the journal.

WITT, Chairman.

By Greer.

S. B. No. 44.

A BILL

To Be Entitled

An Act making provision for the continuance of teachers certificates for one year where the holder of same takes and passes four subjects at a summer school of a State Teachers College or any other institution rated as first class by the State Department of Education, and defining the meaning of courses for the purpose of this Act; providing for the issuance of certificates by the State Superintendent of Education upon the recommendation of the President of the College showing such courses or subjects to have been taken and passed, the teacher's certificate to thereupon be presented to the State Department of Education and upon payment of the fee to be renewed and continued for one year; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. Any person holding a teachers' certificate of any kind or grade which has not expired at the beginning of any summer school of any State Teachers College or any other institution rated as first class by the State Department of Education in this State, shall have the

right to have such certificate revived and continued in force for a period of one year by taking four courses or subjects and passing in same at such summer session of a State Teachers College or any other institution rated as first class by the State Department of Education in this State. Upon successfully passing such four courses or subjects, the President of the College shall certify to same and attach his certificate to the teacher's certificate so held by such person, and thereupon such teacher's certificate shall be presented to the State Department of Education and upon the payment of one dollar fee by the holder, shall be renewed and continued for one year from the beginning of the ensuing school year after taking said four courses; provided the word course or subject as herein specified shall mean one-third of a regular nine month's course.

Sec. 2. The fact that our laws should permit teachers certificates to be revived and continued for another year by taking four courses or subjects in a State Teachers College or any other institution rated as first class by the State Department of Education as provided in this Act, and the fact that this Act should take effect as soon as possible, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each House be suspended, and said rule is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

(Majority Report.)

Committee Room.

Austin, Texas, May 26, 1927.

Hon. Barry Miller, President of the Senate.

Sir: We, a majority of your Committee on State Affairs, to whom was referred

S. B. No. 51, A bill to be entitled "An Act providing that appointments to the State service where practicable shall be made on the basis of merit determined after examination; that the Board of Control may put this principle into effect; that said Board may create rules and regulations for that purpose; that the officers and employees of the State shall be divided into non-competitive,

competitive and labor classes and that those applying for examination for employment in competitive and labor classes shall pay a fee for such examination, which fee shall be used to pay the expense of the service. The classified service shall include employees of the State when this act takes effect in their respective positions for certain periods, and for filing applications for examination, and for their examination in which credit shall be given for experience. The act further provides for the method of making appointments to the State competitive service and for the method of removal of State employees in the State competitive service."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

WIRTZ, Chairman.

(Minority Report.)

Committee Room;

Austin, Texas, May 26, 1927.

Hon. Barry Miller, President of the Senate.

Sir: We, a minority of your Committee on State Affairs, to whom was referred

S. B. No. 51, A bill to be entitled "An Act providing that appointments to the State service where practicable shall be made on the basis of merit determined after examination; that the Board of Control may put this principle into effect; that said Board may create rules and regulations for that purpose; that the officers and employees of the State shall be divided into non-competitive, competitive and labor classes and that those applying for examination for employment in competitive and labor classes shall pay a fee for such examination, which fee shall be used to pay the expense of the service. The classified service shall include employees of the State when this Act takes effect in their respective positions for certain periods, and for filing applications for examination, and for their examination in which credit shall be given for experience. The Act further provides for the method of making appointments to the State competitive service and for the method of removal of State employees in the State competitive service."

Have had the same under consideration, and beg leave to differ with the majority, and report the same back to the Senate with the recommendation that it do not pass.

PARR,
MILLER.

THIRTEENTH DAY.

Senate Chamber,
Austin, Texas.

May 27, 1927.

The Senate met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant-Governor Barry Miller.

The roll was called, a quorum being present, the following Senators answering to their names:

Bailey.	Miller.
Berkeley.	Moore.
Bledsoe.	Real.
Bowers.	Reid.
Fairchild.	Russek.
Floyd.	Smith.
Greer.	Stuart.
Hall.	Triplett.
Hardin.	Ward.
Holbrook.	Westbrook.
Lewis.	Witt.
Love.	Wood.
McFarlane.	Woodward.

Absent.

Neal.

Wirtz.

Absent—Excused.

Parr.

Price.

Pollard.

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Woodward.

Petitions and Memorials.

(See Appendix.)

Committee Reports.

(See Appendix.)

Messages From the Governor.

The Chair recognized the Door-keeper, who introduced a messenger from the Governor with the following Executive Mesage:

Executive Department,
Austin, Texas,
May 26, 1927.

To the Honorable Senate of the State of Texas.

Gentlemen:

Honorable Orion H. Campbell of